

**State of Maine**  
**Board of Licensure in Medicine**  
**137 SHS, 161 Capitol Street**  
**Augusta, Maine 04333-0137**  
**Minutes of March 11, 2014**

**Board Members Present**

Maroulla Gleaton, M.D., Chairman  
David D. Jones, M.D., Board Secretary  
David R. Andrews, M.D.  
Louisa Barnhart, M.D.  
Cheryl Clukey  
David H. Dumont, M.D.  
Dana D. Dyer  
David Nyberg, Ph.D.  
Christopher R. Ross, P.A.-C.  
Peter Sacchetti, M.D.

**Board Staff Present**

Randal C. Manning, Executive Director  
Mark Cooper, M.D., Medical Director  
Kathryn Levesque, Investigator  
Tim Terranova, Acting Assistant Executive Director

**Attorney General's Office Staff**

Dennis Smith, Assistant Attorney General  
Detective James Gioia, Attorney General's Office

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The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions are taken on all matters discussed during executive session. Discussions are projected on a screen.

**EXECUTIVE SESSION**

9:17 a.m. – 9:25 a.m.	Complaints
9:27 a.m. – 11:01 a.m.	Complaints
11:05 a.m. – 12:23 p.m.	Informal Conferences
12:52 p.m. – 1:08 p.m.	Complaints

**I. Call to Order**

Dr. Gleaton called the meeting to order at 9:15 a.m.

**A. Amendments to Agenda**

1. AD 14-39
2. Request for clarification regarding suboxone treatment in county jail
3. Chapter 4 Rules: proposed changes
4. Board meeting process discussion
5. Chapter 2 Rules: proposed changes

**B. Scheduled Agenda Items**

- 11:00 a.m. Informal Conferences
- a. CR13-130

b. CR13-147

1:00 p.m. Adjudicatory Hearing CR13-10 Waleed Khan, M.D.

II. Complaints

1. Letters of Guidance

a. CR13-124 Kenneth P. Wolf, M.D.

Dr. Jones moved to approve the letter of guidance to Dr. Wolf. Ms. Clukey seconded the motion, which passed unanimously.

b. CR13-177

Dr. Nyberg moved to reconsider the Board's action to issue a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

Dr. Barnhart then moved to table the matter. Dr. Jones seconded the motion, which passed unanimously.

c. CR13-181 Sally Kirkpatrick, M.D.

Dr. Sacchetti moved to approve the letter of guidance to Dr. Kirkpatrick. Ms. Clukey seconded the motion, which passed unanimously.

2. CR13-33

Dr. Jones moved to table the matter. Dr. Dumont seconded the motion, which passed 9-0-0-1 with Dr. Sacchetti recused.

3. CR13-66

Dr. Jones moved to order an Informal Conference. Dr. Dumont seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

4. CR13-131

Dr. Dumont moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

5. CR13-109

Dr. Andrews moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed unanimously.

MOTION: The patient's family member complains that the rheumatologist prescribed medication that resulted in the patient's death. He alleges that the medications should not have been prescribed to a patient with her diagnoses. The physician responds that the change in her prescription was actually equivalent to a decrease in the patient's chronic opiate dosing, and that her clinical status had been monitored at home as well as in the office. Risks and precautions are discussed with all patients. Records showed a patient with advanced and painful medical conditions who had an established history of compliance with her medical regimen. Although the medical management was deemed appropriate some shortcomings in medical record keeping were identified. The physician acknowledged the shortcomings, and addressed them by making changes in his practice.

6. CR13-129

Dr. Dumont moved to preliminarily deny the application for permanent licensure and order an adjudicatory hearing on the complaint based on alleged violations of Chapter 10 rules and unprofessional conduct. Dr. Nyberg seconded the motion, which passed unanimously.

7. CR13-187

Dr. Jones moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

MOTION: The patient complains about emergency department care provided by a physician assistant who worked in the "fast track or non-acute area." The patient asserts that his diagnosis and treatment were incorrect. The emergency department physician working at the time of the complainant's visit was involved in review of the patient's chest x-ray and had one or two brief conversations with the physician assistant about this patient. The physician had a complaint filed by the board against her license after review of the original complaint against the physician assistant. Her initial response to the Board complaint, and subsequent reply upon being asked further questions by the Board, clearly explained that the physician assistant worked under very general supervision unless he specifically asked for a consult, which he did not. The physician was therefore not responsible for advising the physician assistant or reviewing his care. The physician does agree, though, that the patient's needs were not fully met by the emergency department's protocols. The physician has independently initiated changes within her department to better serve the needs of patients.

8. CR13-204

Dr. Dumont moved to dismiss the complaint. Dr. Sachetti seconded the motion, which passed unanimously.

MOTION: The patient complains the physician was rude and unprofessional during an emergency department visit. She complains he used unprofessional language and did not appropriately examine her. The physician responded that he provided medically appropriate care and was respectful during the visit. While it is impossible for the Board to know the exact nature of the physician-patient interaction, the medical record reveals appropriate medical care during this and numerous other ED visits.

9. CR13-188

Dr. Barnhart moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed unanimously.

MOTION: The patient complains the physician acted unprofessionally while treating her. She states the treatment consisted of threats, emotional neglect, and degradation. The physician responded with a detailed explanation of her care. She denies the allegations of threats, neglect, and degradation. There is no evidence in the medical record to support the allegations.

10. CR13-210

Dr. Sacchetti moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: A daughter of a 92-year old nursing home patient complains about the care her father received from a general surgeon, who was only involved as a consultant. Review of the records indicates reasonable consultation advice that was in the best interest of the patient given the circumstances. Unfortunately, the case involved several trips to the emergency room to coordinate the care of the patient and this was particularly burdensome to the family as well as the patient. Circumstances of the patient's age, cognition, medical condition at the time of the evaluation, and coordination of medical services complicated the streamlining of the care.

11. CR13-211

Dr. Sachetti moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: A daughter of a 92-year old nursing home patient complains about the care her father received from an emergency room physician. Review of the records indicates

appropriate, thoughtful emergency room care including communication with the treating physician as well as consults with a general surgeon and radiologist to arrange follow up procedures. The situation was complicated by the age of the patient with co-occurring morbidities and multiple trips to the hospital to achieve definitive care.

12. CR13-186.

Dr. Andrews moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 8-0-0-2 with Dr. Gleaton and Mr. Ross recused.

MOTION: The patient complains of unprofessional conduct by her orthopedic surgeon who arrived late for her scheduled surgery and then informed her that she would be further delayed by an emergency surgical procedure. She also complains that the surgeon had ordered sedatives for her prior to his arrival. The surgeon responded that he was delayed by office emergencies and construction traffic, but spoke with the patient as soon as he arrived. He elected to cancel the surgery after the tenor of their discussion turned contentious. Records indicate that the patient and husband were upset well before the surgeon's arrival, which occurred one hour after the scheduled O.R. time. The patient indeed received sedation at an inappropriate time, but this was not the surgeon's order. The record indicates a need for improved communications by the doctor in responding to questions. The surgeon has expressed regrets for one of his statements, and has changed his scheduling practices.

13. CR13-197

Ms. Clukey moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed 7-0-0-3 with Dr. Barnhart, Mr. Ross, and Dr. Sacchetti recused.

MOTION: The complainant alleges she made multiple attempts to contact the physician over a period of years in order to obtain her child's medical records, but received only unprofessional replies from the physician. The physician's practice closed in August 2011. Prior to closing her practice the physician sent letters to all patients and former patients, and transferred medical records to new providers at no cost. Patients who did not contact the practice to transfer the medical records were repeatedly telephoned. The physician in fact transferred the medical records in question several times, and confirmed that the patient's immunization record was complete on the state's website.

14. CR13-199

Mr. Ross moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

15. CR13-206

Mr. Dyer moved to dismiss the complaint. Dr. Sachetti seconded the motion, which passed 8-0-0-2 with Dr. Gleaton and Dr. Barnhart recused.

MOTION: The patient complains the physician assistant did not respond specifically to his neck pain. This is an extremely complex patient. The patient had an eleven-year medical care relationship with the physician assistant. The patient, during the time frame cited, never complained of or even discussed neck pain. However, during the time frame in question the patient was seen on referral for TMJ. Examination of the extensive medical record demonstrates an appropriate standard of care provided to this patient by the physician assistant.

16. CR13-213

Mr. Dyer moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The file is incomplete because authorization to examine medical records was not provided.

17. CR13-216

Mr. Ross moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: A patient complains about the care she received from a physician assistant in her physician's office. In the course of eleven months the patient's back was improving. However, at some point the pain changed, which prompted a second physician assistant to order more tests. Review of the medical record indicates the care was appropriate before and after the pain changed.

18. CR13-217

Mr. Ross moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

19. CR13-221

Dr. Jones moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed unanimously.

MOTION: The patient complains that certain medical information was shared, without her permission, by one provider with another who was involved with her care. HIPAA regulations specify that permitted uses and disclosures include sharing protected medical information about the provision, coordination, or management of health care for an individual by one or more health care providers, including consultation between

providers regarding a patient, and referral of a patient by one provider to another. Accordingly, there was no violation of the privacy rule in this case.

20. CR13-222

Dr. Jones moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed unanimously.

MOTION: The patient complains that certain medical information was shared, without her permission, by one provider with another who was involved with her care. HIPAA regulations specify that permitted uses and disclosures include sharing protected medical information about the provision, coordination, or management of health care for an individual by one or more health care providers, including consultation between providers regarding a patient, and referral of a patient by one provider to another. There was no violation of the privacy rule in this case. However, it is unfortunate the physician set the expectation in the patient's mind that a signed release would be required, a release that was never signed by the patient, and was in fact not required by HIPAA regulations.

21. Intentionally Left Blank

22. Intentionally Left Blank

III. Assessment & Direction

23. AD13-153

Dr. Jones moved to file the matter. Dr. Andrews seconded the motion, which passed unanimously.

24. AD14-22

Dr. Andrews moved to file the matter. Dr. Jones seconded the motion, which passed unanimously.

25. AD14-39

Ms. Clukey moved to summarily suspend the medical license of Roger Hardy, M.D. and to order an Adjudicatory Hearing. Dr. Andrews seconded the motion, which passed unanimously. (Appendix A)

26. Intentionally Left Blank

27. Complaint Status Report

The complaint status report was received.

28. Consumer Assistant Feedback

No Consumer Feedback was presented.

29. Physician Feedback

The Board reviewed the physician feedback.

IV. Informal Conference 11:00 a.m.

A. CR13-130

Following the Informal Conference, Ms. Clukey moved to dismiss the complaint with a Letter of Guidance (Appendix B). Dr. Jones seconded the motion, which passed unanimously.

B. CR13-147

Following the Informal Conference, Dr. Dumont moved to table the matter. Mr. Ross seconded the motion, which passed unanimously.

Public Session

V. Minutes of February 11, 2014

Mr. Dyer moved to approve the minutes of the February 2014 meeting as amended. Ms. Clukey seconded the motion, which passed unanimously.

VI. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders (none)

B. Consent Agreement Monitoring and Approval

1. Daniel Bobker, M.D.

Dr. Nyberg moved to terminate the consent agreement. Dr. Andrews seconded the motion, which passed unanimously.

2. Keng Cheong Leong, M.D.



Dr. Dumont moved to issue a complaint alleging violation of the consent agreement.  
Dr. Jones seconded the motion, which passed unanimously.

VII. Adjudicatory Hearing(s) (1:00 p.m.)

A. CR13-47 Waleed Khan, M.D.

Ms. Clukey moved to accept the signed consent agreement (Appendix C) in lieu of holding the hearing. Dr. Barnhart seconded the motion, which passed unanimously.

VIII. Remarks of Chairman

A. Methadone Dosage Discussion

The Board heard information that the average dosing for Methadone in Maine is about twice as high as in other states. The Board asked that additional information be gathered and brought back for discussion.

IX. Executive Director's Monthly Report

The Board accepted the report of the Executive Director.

A. Complaint Status Report

The complaint status report was received and reviewed.

X. Medical Director's Report

A. PMP, MaineCare, and Prescription Drug Death Update

The Board listened to a presentation from the Medical Director regarding prescription drug overdose deaths in Maine.

XI. Remarks of Assistant Attorney General (None)

XII. Secretary's Report

A. List A

1. M.D. List A Licenses for Ratification

Dr. Dumont moved to ratify the Board Secretary's approval of the physician licensing applications on List A. Ms. Clukey seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary David Jones, M.D., without reservation.

NAME	SPECIALTY	LOCATION
Aguilar, Robin	Internal Medicine	Lewiston
Al-Baghdadi, Yasser A.	Anesthesiology	Lewiston
Bentley, Kenneth W.	Internal Medicine	Lewiston
Bodaghi, Mahdiah	Psychiatry	Bangor
Felix, Nancy A.	Orthopedic Surgery	Not Listed
Hernandez, Ricardo A.	Internal Medicine	Lewiston
Higo, Omokhayeh M.	Anesthesiology	Lewiston
Hutton Lykling, Elizabeth A.	Family Practice	Waterville
Kalb, Thomas H.	Internal Medicine	Lewiston
Ledford, Jodiann T.	Pediatrics	Calais
Mani, Ashwin K.	Internal Medicine	Lewiston
Mautz, Alan P.	Diagnostic Radiology	Presque Isle
McMenomy, Jeffrey M.	Emergency Medicine	Not Listed
Miller, Brooke E.	Ophthalmology	Portland
Myers, Robert P.	Urology	York
Nayi, Amy P.	Internal Medicine	Bangor
Ntimba, Francis D.	Internal Medicine	Lewiston
Papa, Kimberly R.	Psychiatry	Lewiston
Papacostas, Nicholas C.	Emergency Medicine	Portland
Peter, Joanie T.	Family Medicine	Ellsworth
Powers, Annie T.	Pediatrics	Bangor
Puri, Rajeev N.	Surgery	Lewiston
Sahni, Adarsh N	Internal Medicine	Lewiston
Sax, Eric J.	Diagnostic Radiology	Not Listed
Scurlock, Corey S.	Anesthesiology	Lewiston
Tanner, Gerald E.	Anesthesiology	Skowhegan
Toll, Joshua A.	Family Practice	York
Trout, Wendi K.	Internal Medicine	Lewiston

## 2. P.A. List A Licenses for Ratification

Dr. Dumont moved to ratify the Board Secretary's approval of the physician assistant licensing applications on PA List A. Dr. Andrews seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by Board Secretary David Jones, M.D., without reservation.

NAME	LICENSE	PSP	LOCATION
*Sarah Methvin, P.A.C	Inactive	None	None
Grace Mae Pearson, P.A.-C	Active	Shubekchha Aryal, M.D.	Orono
Peter Volk, P.A.-C	Active	Laura Caron, M.D.	Manchester

\*PA Reinstatement

B. List B Applications for Individual Consideration

1. Fareeha Khalil, M.D.

The Licensure Committee moved to offer Dr. Khalil a consent agreement for monitored re-entry into practice. The motion passed unanimously.

2. Mohammad Aljanaby, M.D.

Please see CR13-129

3. Colin Lamb, M.D.

The Licensure Committee moved to waive the applicant's renewal fee and instructed staff to look into changing the protocol for residents. The motion passed unanimously.

C. List C Applications for Reinstatement

1. List C Applications for Reinstatement

Dr. Dumont moved to ratify the Board Secretary's approval of the license reinstatement applications of the physicians on List C. Dr. Sacchetti seconded the motion, which passed unanimously.

The following license reinstatement applications have been approved by Board Secretary David Jones, M.D., without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Moses, Jacqueline D.	Psychiatry	Augusta

2. List C Applications for Reinstatement for Individual Consideration (None)

D. List D Withdrawals

1. List D (1) Withdraw License Application (None)

2. List D (2) Withdraw License from Registration

Dr. Jones moved to approve the licensees' requests on List D (2) to withdraw from registration. Dr. Dumont seconded the motion, which passed unanimously.

The following physicians have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NO.</u>
Haering, James	MD14754
Jicha, Douglas	MD14798
Kumaran, Karthic	MD16187
Miller, David T	MD19256
Morse, Jeffrey	MD7656
Niebylski, Bruce	MD19043
Pham, Phuong-Mai	MD13801
Wlodarski, Fred	MD8972

3. List D (3) Withdraw License from Registration - Individual Consideration (None)

E. List E Licenses to lapse by operation of law

The following physician licenses lapsed by operation of law effective February 24, 2014.

<u>NAME</u>	<u>LICENSE NO.</u>
Chowdhry, Rajendra	MD8286
Cahill, James	MD16621
Elbadawi, Nabila	MD8572
Fagin, Karen	MD15316
Hagan, Joseph	MD19082
Haller, Linda	MD19568
Hovey, Charlotte	MD15784
Kassarjian, Ara	MD17119
Mahoney, Cydney	MD14258
Markowitz, Michael	MD15802
Masson, Vivek	MD19081
McCormick, John	MD15502
McDonald, Colin	MD18736
Pentin, Pamela	MD17145
Schonfeld, Emily	MD19295
Sejour, Jodine	MD18972
Shields, Lawrence	MD7661
Soli, Soleiman	MD5850
Vasishtha, Neeraj	MD18579
Wnek, Janice	MD8481

F. List F Licensees requesting to convert to active status (None)

G. List G Renewal applications for review (None)

H. List H. Physician Assistant Schedule II Authority Requests for Ratification

1. Dr. Dumont moved to ratify the Board Secretary's approval of the following renewal requests for Schedule II prescribing authority. Dr. Andrews seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary David Jones, M.D., without reservation.

NAME	PSP	LOCATION
Scott Collins, P.A.-C	Stephen Rodrigue, M.D.	Falmouth
Patrick Furlong, P.A.-C	George Babikian, M.D.	Falmouth
Matthew Guilbeault, P.A.-C	Reed Gramse, M.D.	Portland
Lindsey Harnden, P.A.-C	Douglas Smith, M.D.	Poland
Darren Pelletier, P.A.-C	Ian Dickey, M.D.	Bangor
Christina Thomas, P.A.-C	Krista Burchill, M.D.	Presque Isle
Michael Wetzel, P.A.-C	Robert Clough, M.D.	Bangor

2. Applications for New Schedule II Authority

Dr. Dumont moved to ratify the Board Secretary's approval of the following requests for Schedule II Authority. Dr. Sacchetti seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary David Jones, M.D., without reservation.

NAME	PSP	LOCATION
Sarah Chase, P.A.-C	Owen Nelson, M.D.	Belfast
Stephen DelCasino, P.A.-C	Lindsey Kerr, M.D.	Bangor
Barrett Grimnes, P.A.-C	James White, M.D.	Blue Hill
Teri Schrock, P.A.-C	Stephen Jacobs, M.D.	Lewiston
Greg Schimmack, P.A.-C	David Robaczewski, M.D.	Portland
Christopher Williamson, P.A.-C	Lindsey Kerr, M.D.	Bangor

### XIII. Standing Committee Reports

A. Special Projects Committee

The Committee moved to send correspondence to the Maine State Prison asking for information regarding its prescribing policies. The motion passed unanimously.

XIV. Other Business

A. Request for Clarification from Eileen Fingerman, M.D.

The Board reviewed a request for clarification of practice from Dr. Fingerman and instructed staff obtain additional information.

B. Chapter 4 Rules

Dr. Andrews made a motion to accept Chapter 4 as amended for rulemaking. Mr. Dyer seconded the motion which passed unanimously.

C. Board Meeting Process Discussion


The Board discussed ways to make Board meetings more efficient. In the future, if a case is "further investigated," the case reporter will review the additional information and determine if it is ready to come back to the Board or if additional information is still needed. In addition, the Board instructed staff to look at statutes and rules from other boards allowing electronic participation in their meetings.

D. Chapter 2 Rules

The Board discussed proposed changes to the Chapter 2 Rules. Board members will review the changes and discuss them at a future meeting.

XV. Adjournment 3:35 p.m.

Respectfully submitted,



Timothy Terranova  
Acting Assistant Executive Director



Paul R. LePage  
GOVERNOR

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE  
137 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0137

Maroulla S. Gleaton, MD  
CHAIRMAN

Randal C. Manning, M.B.A.  
EXECUTIVE DIRECTOR

**APPENDIX A**

March 12, 2014

**SENT VIA FIRST CLASS AND CERTIFIED MAIL 7010 2780 0003 5885 3920  
RETURN RECEIPT REQUESTED**

Roger I. Hardy, M.D.  
53 Maplecroft Lane  
Ipswich, MA 01938-1182

**RE: NOTICE OF SUMMARY SUSPENSION OF MAINE MEDICAL LICENSE**

Dear Dr. Hardy:

During its meeting on March 11, 2014 the Maine Board of Licensure in Medicine reviewed information regarding the voluntary surrender of your Massachusetts medical license. A copy of the material reviewed by the Board is enclosed.

After review of this information, the Board voted to summarily suspend your license to practice medicine in Maine effective March 11, 2014, pursuant to 5 M.R.S.A. § 10004 (3) because of the immediate jeopardy your continued practice of medicine poses to the health and physical safety of the public. Your license is suspended for thirty (30) days pending an adjudicatory hearing before the Board on April 8, 2014. A notice of hearing will be sent to you forthwith.

In addition, the Board voted to offer you the enclosed consent agreement to resolve the matter without further proceedings, including an adjudicatory hearing. The consent agreement provides for the immediate and permanent surrender of your Maine medical license. In the event that you decide to accept the consent agreement, please execute it in front of a notary public and send it back to me at the above address **on or before April 1, 2014.**

In the meantime, you must forward your Maine medical license to the Board office immediately.

Sincerely,

Timothy E. Terranova  
Acting Assistant Executive Director

TET/msl  
Enclosures  
cc: Dennis E. Smith, AAG (w/enc)



Paul R. LePage  
GOVERNOR

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE  
137 STATE HOUSE STATION  
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Maroulla S. Gleaton, MD  
CHAIRMAN

Randal C. Manning, M.B.A.  
EXECUTIVE DIRECTOR

APPENDIX B

April 8, 2014

Karl E. Sanzenbacher, M.D.  
225 Center Street  
Bangor, ME 04401

Dear Dr. Sanzenbacher:

In the matter of complaint CR 13-130, and in accordance with 10 M.R.S.A., § 8003 (5), the Maine Board of Licensure in Medicine voted to dismiss this complaint on March 11, 2014 and issue you a letter of guidance. Pursuant to that statute, this letter of guidance is not a formal proceeding, does not constitute an adverse disciplinary action of any form, and is not reportable to any data bank. This letter of guidance, together with the complaint, response and investigative materials, will be placed in your file and held for ten (10) years. These materials may be accessed and considered by the Board in any subsequent action commenced against you within this 10-year time period. The complaint response, reports and investigative materials remain confidential when they are placed on file, but the letter of guidance itself is not confidential.

Concern regarding your actions during the physical examination of a patient was the basis of this Board complaint.

The guidance is as follows:

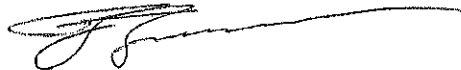
1. Recognize the need to be sensitive to a patient's expectations and communicate clearly what your examination includes before it is initiated;
2. When the exam is of a sensitive nature, always offer the patient a chaperone who is not a family member;
3. Recognize the need to be sensitive about what you say and the effect your comments may have on patients; and
4. Recognize that patient problems you may identify which are outside the scope of your specialty, Neurology, are best referred to the patient's primary care provider for evaluation.



Letter to Karl E. Sanzenbacher, M.D.  
Page Two  
April 8, 2014

The purpose of this letter is to educate and reinforce your knowledge in order to avoid a future situation where a failure to heed this guidance might lead to a disciplinary proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Terranova', with a long horizontal flourish extending to the right.

Timothy E. Terranova  
Assistant Executive Director

cc: CR 13-130  
David King, Esq.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	CONSENT
Waleed Khan, M.D.	)	AGREEMENT
Complaint No. CR13-47	)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the temporary license to practice as a physician in the State of Maine held by Waleed Khan, M.D. The parties to the Consent Agreement are: Waleed Khan, M.D. ("Dr. Khan"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Dr. Khan a temporary license to practice as a physician in the State of Maine on June 11, 2012. At all times relevant to this complaint, Dr. Khan was licensed as a physician by the Board. On June 10, 2013, Dr. Khan's temporary license expired. Dr. Khan no longer holds a license to practice medicine in the State of Maine.

2. On March 12, 2013, the Board reviewed information received from Houlton Regional Hospital, which terminated Dr. Khan's employment as a result of inappropriate conduct with a patient. At the time, Dr. Khan was acting as a locum tenens physician providing coverage in the Emergency Department. According to the information, Dr. Khan was observed kissing a female patient. Following its review of this information, the Board voted to initiate a complaint against Dr. Khan's physician license pursuant to 32 M.R.S. § 3282-A alleging unprofessional conduct, and a violation of Board Rule Chapter 10, Sexual Misconduct based upon Dr. Khan's reported behavior. The Board docketed the complaint as CR13-47 and sent it to Dr. Khan for a written response.

3. On or about June 11, 2013, the Board received a response from Dr. Khan to complaint CR13-47. In his response, Dr. Khan described his medical education, and how he came to work as a locum tenens at the Emergency Department at Houlton Regional Hospital. Dr. Khan expressed regret over the concerns that the situation caused Houlton Regional Hospital and that it jeopardized his position at the hospital. However, Dr. Khan did not believe that his behavior rose to the level of unprofessional conduct or violated any Board statutes or rules. Dr. Khan asserted that the incident arose out of a cultural misunderstanding and as a result of his ethnic background. According to Dr. Khan, he "simply did not know how to respond" when the female patient "started kissing [him] on [his] lips." Dr. Khan asserted that it was the strangest thing that ever happened to him, and that he was from a culture where he could not imagine this happening. Dr. Khan claimed that he did not mention the kiss to the nurses in the Emergency Department because he was not aware that they had witnessed the incident, and he was surprised and embarrassed and did not know what to do.

4. On July 9, 2013, the Board reviewed complaint CR13-47, including Dr. Khan's response and all information obtained to date, and voted to further investigate it by interviewing the two nurses who witnessed the kissing incident in the Emergency Department and reported the incident to the hospital administration. The Board's investigator subsequently interviewed the two nurses and created a report of those interviews.

5. On September 10, 2013, the Board again reviewed complaint CR13-47, including the interview of the two nurses who witnessed the incident. According to the interview, Nurse #1 witnessed Dr. Khan kissing a female patient in a room in the Emergency Department. According to Nurse #1, she saw Dr. Khan in an embrace with the female patient, with their arms wrapped around one another, leaning into each other, in a passionate kiss. Nurse #1 left the

room, located Nurse #2, and told Nurse #2 to go the room where Dr. Khan was with the patient. According to Nurse #2, she went to the room in which Dr. Khan was with the female patient and observed Dr. Khan kissing the female patient, with their arms wrapped around one another, and the patient on a stretcher leaning into Dr. Khan. Both Nurse #1 and Nurse #2 expressed shock at witnessing Dr. Khan's kissing the female patient, who came to the Emergency Department under the influence of drugs and with lacerations on her arm. Both Nurse #1 and Nurse #2 immediately notified their supervising nurse about Dr. Khan's conduct. As a result of this information, the Board noted that the kiss lasted long enough for Nurse #1 to leave the room, tell Nurse #2 to go into the room, and Nurse #2 to enter the room where the incident was taking place. The Board also noted that neither Nurse #1 nor Nurse #2 saw Dr. Khan try to push away the female patient. Following its review of this information, the Board voted to set Complaint CR13-47 for an adjudicatory hearing. In addition, the Board voted to offer this Consent Agreement to resolve Complaint CR13-47 without further proceedings, including an adjudicatory hearing.

6. Board Rule Chapter 10, Sexual Misconduct, Section 1(3) and Section 1(B)(1) provides in relevant part:

"Physician/physician assistant sexual misconduct" is behavior that exploits the physician/physician assistant-patient relationship in a sexual way. This behavior is nondiagnostic and/or nontherapeutic, may be verbal or physical, and may include expressions or gestures that have a sexual connotation or that a reasonable person would construe as such. Sexual misconduct is considered incompetence and unprofessional conduct as defined by 32 M.R.S.A. §2591-A(2) and 32 M.R.S.A. §3282 -A(2).

"Sexual impropriety" is behavior, gestures, or expressions by the physician/physician assistant that are seductive, sexually suggestive, or sexually demeaning to a patient, including but not limited to kissing.

7. This Consent Agreement has been negotiated by and between Dr. Khan and legal counsel for the Board in order to resolve complaint CR13-47 without further proceedings, including an adjudicatory hearing. Absent Dr. Khan's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before November 22, 2013, the matter will be scheduled for an adjudicatory hearing.

8. By signing this Consent Agreement, Dr. Khan waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Khan and the Board agree to the following:

9. Dr. Khan admits that with regard to complaint CR13-47 the Board has sufficient evidence from which it could reasonably conclude that he kissed a female patient in the Emergency Department at Houlton Regional Hospital. Dr. Khan admits that such conduct constitutes unprofessional conduct, violates Board Rule Chapter 10, and is grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (H).

10. As discipline for the conduct described in paragraphs 1-9 above pertaining to complaint CR13-47, and in light of the fact that Dr. Khan no longer holds a license to practice medicine in the State of Maine, Dr. Khan agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. In this case, the Board has no evidence to indicate that Dr. Khan initiated the kiss. Nonetheless, by continuing to kiss a patient who was under the influence of drugs, Dr. Khan engaged in conduct that exploited the physician-patient relationship in a sexual way and which brings discredit upon the practice of medicine. As a physician, Dr. Khan is responsible for conducting himself in a manner that comports with the Board's laws and rules and with the ethical treatment of patients. Dr. Khan shall not engage in any similar type of conduct in the future.

b. A MONETARY FINE of One Thousand Dollars and Zero Cents (\$1,000.00). Dr. Khan shall ensure that he pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. Reimburse the Board Nine Hundred Sixty-One Dollars Thirty-Nine Cents (\$961.39) as the actual costs of the investigation of this matter. Dr. Khan shall ensure that he makes full payment of reimbursement to the Board within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine," and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

11. Violation by Dr. Khan of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

12. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Khan agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of his license, in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

13. Dr. Khan waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Khan agrees that this Consent Agreement and Order is a final order resolving complaint CR13-47. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

14. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Khan or any other matter relating to this Consent Agreement.

15. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

16. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB) and the Federation of State Medical Boards (FSMB).

17. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

18. The Board and Dr. Khan agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that

similar true allegations are brought against Dr. Khan in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Khan's Maine physician license.

19. Dr. Khan acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

20. For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

I, WALEED KHAN, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: March 7<sup>th</sup> 2014

WALEED KHAN, M.D.

STATE OF Texas

, S.S.

Personally appeared before me the above-named Waleed Khan, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: March 7<sup>th</sup> 2014

Norma P. Aguilar  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 12/10/17






STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 3/19/14

  
MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 3/19/14

  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 3/19/14